



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0127; Notice 2]

Graco Children's Products, Inc., Denial of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT).

ACTION: Denial of petition.

SUMMARY: Graco Children's Products, Inc. (Graco), has determined that certain Graco Milestone child restraints manufactured between July 9, 2015 and October 6, 2015, do not fully comply with paragraph S5.5.2(g)(1)(ii) of Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems*. Graco filed a report pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Graco then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety. NHTSA is denying the petition.

ADDRESSES: For further information on this decision contact Zachary Fraser, Office of Vehicles Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5754, facsimile (202) 366-5930.

SUPPLEMENTARY INFORMATION:

I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Graco submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on February 17, 2016, in the **Federal Register** (81 FR 8123). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2015-0127."

II. Child Restraints Involved: Affected are approximately 8,240 Graco Milestone child restraints manufactured between July 9, 2015 and October 2, 2015.

III. Noncompliance: Graco explains that the noncompliance is an omitted statement on the child restraint's label. The labels on the subject child restraints do not contain the phrase "Secure this child restraint with the vehicle's child restraint anchorage system, if available, or with a vehicle belt" as required by paragraph S5.5.2(g)(1)(ii) of FMVSS No. 213.

IV. Rule Text: Paragraph S5.5.2(g)(1)(ii) of FMVSS No. 213 requires in pertinent part:

S5.5.2 The information specified in paragraphs (a) through (m) of this section shall be stated in the English language and lettered in letters and numbers that are not smaller than 10 point type. Unless otherwise specified, the information shall be labeled on a white background with black text. Unless written in all capitals, the information shall be stated in sentence capitalization. ...

(g) The statements specified in paragraphs (1) and (2):

(1) A heading as specified in S5.5.2(k)(3)(i), with the statement "WARNING! DEATH or SERIOUS INJURY can occur," capitalized as written and followed by bulleted statements in the following order: ...

(ii) Secure this child restraint with the vehicle's child restraint anchorage system if available or with a vehicle belt. [For car beds, harnesses, and belt positioning boosters, the first part of the statement regarding attachment by the child restraint attachment by the child restraint anchorage system is optional]. ...

V. Summary of Graco's Analyses: Graco stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

(1) Graco stated that visual pictograms affixed to the subject child restraints show the rear-facing and forward-facing child restraint being secured using the child restraint anchorage system and using a vehicle belt (both with a lap only seat belt and lap/shoulder seat belt). The pictogram showing the rear-facing child restraint is located on the noncompliant label just below the omitted required phrase. The pictogram showing the forward-facing

child restraint is located on a label in a different location on the restraint. Graco believes that the pictograms provide the same information as the omitted language required by FMVSS No. 213.

- (2) Graco also stated that in addition to the pictograms that describe how to secure the child restraint in the vehicle using the child restraint anchorage system and the vehicle belt, the printed instruction manual provided with the subject child restraints includes procedures to secure the child restraint in rear-facing and forward-facing modes using the child restraint anchorage system as well as the vehicle seat belt systems. The instruction manual also includes multiple prominently placed safety warnings regarding the need to secure the child restraint with the child restraint anchorage system or the vehicle seat belt. Graco added that for those consumers who obtain a child restraint second hand or without the instruction manual, the pictograms on the labels suffice for providing the omitted information.

- (3) Graco stated its belief that consumers generally understand that child restraints must be installed/secured in a vehicle's seat to be effective. Graco also stated that consumers will be

visually drawn to illustrations showing the child restraint being secured in the vehicle thus the omitted required phrase does not affect the crashworthiness of the child restraint. Graco has additionally informed NHTSA that it has corrected the noncompliance so that child restraints produced after October 2, 2015, comply with all applicable labeling requirements of FMVSS No. 213.

In summation, Graco believes that the described noncompliance of the subject child restraints is inconsequential to motor vehicle safety, and that its petition, to exempt Graco from providing recall notification of the noncompliance as required by 49 U.S.C. 30118 and remedying the noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA'S DECISION:

NHTSA's Analysis: The omitted label text required by S5.5.2(g)(1)(ii) of FMVSS No. 213, instructs a caregiver using the child seat to secure the child restraint with the vehicle's child restraint anchorage system if available or with a vehicle belt. The text is required to be placed under a larger label heading required by S5.5.2(g)(1) which states "WARNING! DEATH or SERIOUS INJURY can occur" capitalized as written and followed by bulleted statements in sequential order, beginning with important instructions for rear-facing usage, the maximum mass

of children that can safely occupy the system, proper adjustment of the belts provided with the child restraint, instructions for securing the child restraint tether and the child restraint to the vehicle, and guidance on using and storing the instruction manual and on registering the restraint for recall notification purposes. The importance of the statement omitted by Graco is underscored by the requirement that it be located under this warning heading on the label.

The agency is not persuaded by Graco's statements that the missing statement is inconsequential to safety. Even though the subject child restraints are sold with labels that contain pictograms showing installations of rear-facing and forward-facing child restraints with anchorage systems and vehicle seat belt systems, the consumer may not be forewarned of the importance of the information being conveyed in these labels due to the omitted statement and its location under the capitalized warning heading.

Graco further contends that the printed instruction manual contains written procedures to secure the child restraint in rear-facing and forward-facing modes using anchorage systems and vehicle seat belt systems. Also, for those consumers who obtain a child restraint second-hand or without the instruction manual, Graco believes the pictograms on the labels suffice for providing the omitted information.

The agency disagrees with Graco's contention that since the printed instruction manual contains written instructions to install the child restraint in the rear-facing and forward-facing modes with anchorage systems and vehicle seat belt systems, the missing statement is inconsequential to safety. Even though the subject child restraints are required to be sold with a printed instruction manual containing written procedures for securing the child restraint in the vehicle, the consumer may not be forewarned to use the manual for specific instructions to properly secure the child restraint in the vehicle due to the omitted required statement. Consumers who may obtain a child restraint second-hand or without the instruction manual, would, according to Graco, be provided the omitted information with the pictograms on the labels. The agency stated above that the consumer may not be forewarned of the importance of the information being conveyed in these labels due to the omitted statement and its location under the capitalized warning heading.

Graco stated its belief that consumers generally understand that child restraints must be installed/secured in a vehicle's seat to be effective. Graco also stated that consumers will be visually drawn to illustrations showing the child restraint being secured in the vehicle, thus, the omitted required phrase does not affect the crashworthiness of the child restraint.

Graco has presented no evidence to support this claim. In fact, the agency is aware of instances of gross misuse in the past where child restraints were found completely unattached to the vehicle seat. NHTSA does not agree that consumers necessarily understand the proper installation of child restraints in a vehicle seat, especially in a child restraint without the required statement. Also, NHTSA does not agree that consumers will necessarily be visually drawn to illustrations showing the child restraint being secured in the vehicle.

In summation, the agency believes that all the requirements contained in FMVSS No. 213 pertaining to the proper securement of a child restraint in a vehicle as described in the required statement omitted by Graco and included in the pictograms and printed instruction manuals are necessary to convey this important information.

NHTSA's Decision: In consideration of the foregoing, NHTSA finds that Graco has not met its burden of persuasion that the FMVSS No. 213 noncompliance is inconsequential to motor vehicle safety. Accordingly, Graco's petition is hereby denied and Graco is obligated to provide notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Gregory K. Rea,
Associate Administrator
for Enforcement.

Billing Code: 4910-59-P

[FR Doc. 2016-20560 Filed: 8/26/2016 8:45 am; Publication Date: 8/29/2016]